

PATENT  
Attorney Docket No. 104.0004-03000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Confirmation No.: 3765  
David F. Meschan )  
Serial No.: 10/735,343 ) Group Art Unit: 3728  
Filed: December 11, 2003 )  
For: ATHLETIC SHOE WITH IMPROVED )  
HEEL STRUCTURE )

**RECEIVED**  
**CENTRAL FAX CENTER**

SEP 01 2004

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits for the above-referenced application.

Copies of the listed documents were previously cited/submitted in a prior application, Serial No. 09/419,641, filed October 18, 1999, now U.S. Patent No. 6,662,471; Serial No. 09/149,142, filed September 8, 1998, now U.S. Patent No. 5,970,628; and/or Serial No. 08/542,251, filed October 12, 1995, now U.S. Patent No. 5,806,210; upon which applicant relies for the benefits provided in 35 U.S.C. § 120. Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines that the cited documents do not constitute "prior art" under United States law, applicant

**BEST AVAILABLE COPY**

reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.


Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: September 1, 2004

By:   
Thomas H. Martin  
Registration No. 34,383

1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: (330) 877-0700  
Facsimile: (330) 877-2030

FORM PTO-1083

Attorney Docket No.: 104.0004-03000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

David F. Meschan

Serial No: 10/735,343

Filed: December 11, 2003

For: ATHLETIC SHOE WITH IMPROVED  
HEEL STRUCTURE

Confirmation No.: 3765

Art Unit: 3728

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above-identified application.

- ☐ No additional fee is required.
- ☐ Applicant hereby requests a \*\*\*month extension of time to respond to the above office action.
- ☒ Information Disclosure Statement with Form PTO-1449 is enclosed.

The fee has been calculated as shown below:

The fee has been calculated as shown below.								
	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR		(Col. 3) PRESENT EXTRA.*	LG/SM \$ ENTITY FEE		ADD'L FEE DUE
TOTAL CLAIMS FEE	124	-	59	--	65	LG=\$18 SM=\$9	\$18	\$ 1,170.00
INDEPENDENT CLAIMS FEE	2	-	3	---	0	LG=\$86 SM=\$43	\$86	\$ 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS:					LARGE ENTITY FEE = \$290 SMALL ENTITY FEE = \$145		\$ 0	
							TOTAL	\$ 1,170.00

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

- If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

\*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- ☒ An additional claims fee in the amount of \$1,170.00 is to be charged to Deposit Account No. 50-1068.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1068. **A copy of this sheet is enclosed.**
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,  
MARTIN & FERRARO, LLP

Date: September 1, 2004

By: Thomas H. Martin  
Registration No. 34,3831557 Lake O'Pines Street, NE  
Hartsville, Ohio 44632  
Telephone: (330) 877-0700  
Facsimile: (330) 877-2030

FORM PTO-1083

Attorney Docket No.: 104.0004-03000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

David F. Meschan

Serial No: 10/735,343

Filed: December 11, 2003

For: ATHLETIC SHOE WITH IMPROVED  
HEEL STRUCTURE

Confirmation No.: 3765

Art Unit: 3728

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above-identified application.

- ☐ No additional fee is required.
- ☐ Applicant hereby requests a \*\*\*month extension of time to respond to the above office action.
- ☒ Information Disclosure Statement with Form PTO-1449 is enclosed.

The fee has been calculated as shown below:

he fee has been calculated as shown below:

	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Col. 3) PRESENT EXTRA.*	LG/SM \$ ENTITY FEE		ADD'L FEE DUE
TOTAL CLAIMS FEE	124	-	59	65	LG=\$18 SM=\$9	\$18	\$ 1,170.00
INDEPENDENT CLAIMS FEE	2	-	3	0	LG=\$86 SM=\$43	\$86	\$ 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS					LARGE ENTITY FEE = \$290 SMALL ENTITY FEE = \$145		\$ 0
TOTAL							\$ 1,170.00

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

\*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- ☒ An additional claims fee in the amount of \$1,170.00 is to be charged to Deposit Account No. 50-1068.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1068. A copy of this sheet is enclosed.
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,  
MARTIN & FERRARO, LLP

Date: September 1, 2004

By: Thomas H. Martin  
Registration No. 34,3831557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: (330) 877-0700  
Facsimile: (330) 877-2030

OMB 0651-0031

Substitute for FORM PTO-1449			Attorney Docket Number 104.0004-04000		Customer No. 22882	
<b>INFORMATION DISCLOSURE CITATION IN AN APPLICATION</b>  <i>(Use several sheets if necessary)</i> Sheet <u>1</u> of <u>6</u>			Applicant David F. Meschan		Application Number 10/735,343	
			Filing Date December 11, 2003		Group Art Unit (3728)	
<b>U.S. PATENT DOCUMENTS</b>						
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	6,568,102	05/2003	Healy et al.			
	5,970,628	10/1999	Meschan			
	5,829,172	11/1998	Kaneko			
	5,806,210	09/1998	Meschan			
	5,722,186	03/1998	Brown			
	5,615,497	04/1997	Meschan			
	5,580,128	10/1996	Meschan et al.			
	5,528,842	06/1996	Ricci et al.			
	5,469,638	11/1995	Crawford, III			
	5,435,079	07/1995	Gallegos			
	5,425,184	06/1995	Lyden et al.			
	5,402,588	04/1995	Graham et al.			
	5,381,808	01/1995	Claveria			
	5,367,792	11/1994	Richard et al.			
	5,353,523	10/1994	Kilgore et al.			
	5,343,639	09/1994	Kilgore et al.			
	5,325,611	07/1994	Dyer et al.			
	5,319,866	06/1994	Foley et al.			
	5,255,451	10/1993	Tong et al.			
	5,224,277	07/1993	Sang Do			
	5,197,206	03/1993	Shorten			
	5,191,727	03/1993	Barry et al.			
	5,185,943	02/1993	Tong et al.			
	5,179,791	01/1993	Lain			
	5,092,060	03/1992	Frachey et al.			
	5,086,574	02/1992	Bacchiocchi			
	5,083,385	01/1992	Halford			
	5,070,629	12/1991	Graham et al.			
	5,052,130	10/1991	Barry et al.			
	5,014,449	05/1991	Richard et al.			

Form PTO 1449  
PTO/SR/08/10/921

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

	5,005,300	04/1991	Diaz et al.			
	4,995,173	02/1991	Spier			
	4,979,319	12/1990	Hayes			
	4,936,028	06/1990	Posacki			
	4,887,367	12/1989	Mackness et al.			
	4,881,329	11/1989	Crowley			
	4,879,821	11/1989	Graham et al.			
	4,878,300	11/1989	Bogaty			
	4,875,300	10/1989	Kazz			
	4,866,861	09/1989	Noone			
	4,845,863	07/1989	Yung-Mao			
	4,843,737	07/1989	Vorderer			
	4,815,221	03/1989	Diaz			
	4,811,500	03/1989	Maccano			
	4,785,557	11/1988	Kelley et al.			
	4,778,717	10/1988	Fitchmun			
	4,776,109	10/1988	Sacre			
	4,756,095	07/1988	Lakic			
	4,745,693	05/1988	Brown			
	4,741,114	05/1988	Stubblefield			
	4,712,314	12/1987	Sigoloff			
	4,709,489	12/1987	Welter			
	4,706,392	11/1987	Yang			
	4,880,876	07/1987	Peng			
	4,642,917	02/1987	Ungar			
	4,638,575	01/1987	Illustrato			
	4,622,764	11/1986	Bouler			
	4,610,100	09/1986	Rhodes			
	4,608,788	09/1986	Cavanagh			
	4,606,139	08/1986	Silver			
	4,598,487	07/1986	Misevich			
	4,561,195	12/1985	Onoda et al.			
	4,550,510	11/21985	Stubblefield			
	4,546,556	10/1985	Stubblefield			
	4,541,185	09/1985	Chou			
	4,534,124	08/1985	Schnell			
	4,530,173	07/1985	Jesinsky, Jr.			
	4,510,700	04/1985	Brown			

	4,486,964	12/1984	Rudy			
	4,455,766	06/1984	Rubens			
	4,455,765	06/1984	Sjosward			
	4,449,307	05/1984	Stubblefield			
	4,429,474	02/1984	Metro			
	4,414,783	11/1983	Bente			
	4,399,620	08/1983	Funck			
	4,393,605	07/1983	Spreng			
	4,391,048	07/1983	Lutz			
	4,378,643	04/1983	Johnson			
	4,377,042	03/1983	Bauer			
	4,372,058	02/1983	Stubblefield			
	4,363,177	12/1982	Boros			
	4,342,158	08/1982	McMahon et al.			
	4,322,895	04/1982	Hockerson			
	4,322,894	04/1982	Dykes			
	4,320,588	03/1982	Sottolana			
	4,288,929	09/1981	Norton et al.			
	4,267,650	05/1981	Bauer			
	4,263,728	04/1981	Frecentese			
	4,262,434	04/1981	Michelotti			
	4,258,480	03/1981	Famolare, Jr.			
	4,224,749	09/1980	Diaz-Cano			
	4,214,384	07/1980	Gonzalez			
	4,168,585	09/1979	Gleichner			
	4,102,061	07/1978	Saaristo			
	4,098,011	07/1978	Bowerman			
	4,067,123	01/1978	Minihane			
	4,062,132	12/1977	Klimaszewski			
	4,043,058	08/1977	Hollister et al.			
	3,988,840	11/1976	Minihane			
	3,928,881	12/1975	Bente			
	3,804,099	04/1974	Hall			
	3,782,010	01/1974	Frattallone			
	3,775,874	12/1973	Bonneville			
	3,664,041	05/1972	Frattallone			
	3,646,497	02/1972	Gillikin			
	3,593,436	05/1969	Vietas			

	3,566,489	03/1969	Morley			
	3,514,879	06/1970	Frattallone			
	3,478,447	11/1969	Gilead			
	3,455,038	07/1969	Kasdan			
	3,318,025	05/1967	Antelo			
	3,271,885	09/1966	McAuliffe			
	3,237,321	03/1966	McKinley			
	3,208,163	09/1965	Rubens			
	3,171,218	03/1965	D'Urbano			
	3,169,327	02/1965	Fukuoka			
	3,087,265	04/1963	McKinley			
	3,085,359	04/1963	Rubens			
	3,083,478	04/1963	Rakus			
	2,998,661	09/1961	Israel			
	2,806,302	09/1957	Sharpe			
	2,745,197	05/1958	Holt			
	2,707,341	05/1955	Romano			
	2,628,439	02/1953	Rochlin			
	2,607,134	08/1952	Langer			
	2,556,842	06/1951	Gilmour			
	2,540,449	02/1951	Kaufmann			
	2,508,318	05/1950	Wallach			
	2,500,302	03/1950	Vicente			
	2,491,280	12/1949	Roth			
	2,447,603	08/1948	Snyder			
	2,446,627	08/1948	Bier			
	2,374,954	05/1945	Pipitone			
	2,300,635	11/1942	Shepherd			
	2,288,168	06/1942	Leu			
	2,208,260	07/1940	Hayden			
	2,148,974	02/1939	Wysowski			
	2,119,807	08/1938	Farley			
	2,078,311	04/1937	Boag			
	2,003,646	08/1935	De Blasio			
	2,002,087	05/1935	Esterson			
	1,811,841	06/1931	Marcelle			
	1,721,714	07/1929	Ross			
	1,625,048	04/1927	Hock			



	1,611,024	12/1926	Grimaldi			
	1,542,174	06/1925	Robidoux			
	1,516,384	11/1924	Kamada			
	1,501,765	07/1924	Freese			
	1,479,773	01/1924	Craig			
	1,458,257	06/1923	Van Melle			
	1,444,677	02/1923	Fischer			
	1,439,758	12/1922	Redman			
	1,439,757	12/1922	Redman			
	1,410,064	03/1922	Hunt			
	1,371,339	03/1921	Arntz et al.			
	1,366,601	01/1921	Sellers			
	1,346,841	07/1920	Padden			
	1,318,247	10/1919	Victor			
	1,316,505	09/1919	O'Neill			
	1,112,635	10/1914	May			
	1,088,328	02/1914	Cuccinotta			
	1,062,338	05/1913	Kane			
	1,046,815	12/1912	Lavoie			
	990,458	04/1911	Scholl			
	818,861	04/1906	Beck et al.			
	789,089	05/1905	Frank			
	652,887	07/1990	Butterfield			
	674,636	05/1901	Priestman			
	537,492	04/1895	Smith			
	485,813	11/1892	Hooper			
	357,062	02/1887	Buch			
	221,592	11/1879	Mitchell et al.			
	48,682	07/1865	Hayward et al.			
	Re. 33,648	07/1991	Brown			

## FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION (YES/NO)
	533 972	03/1922	France			
	2 742 138	03/1979	Germany			
	2 154 951	05/1973	Germany			
	947 054	07/1956	Germany			
	093 394	07/1940	Germany			

	648 339	07/1937	Germany			
	2 144 024	02/1985	Great Britain			
	1 540 926	02/1979	Great Britain			
	229 884	03/1924	Great Britain			
	63 342	02/1911	Great Britain			
	25 728	11/1909	Great Britain			
	5-18965	05/1993	Japan			Yes
	62-41601	10/1987	Japan			Yes
	62-200904	12/1987	Japan			Partial
	434 029	10/1967	Switzerland			
<b>OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)</b>						
	"New Footwear Concepts" by E.I. du Pont de Nemours & Co. (1988) Etonic Spring 1996 Footwear catalogue					
	International Search Report for International Application PCT/US94/09001					
	Etonic Spring 1996 Footwear catalogue.					
	Mizuno Sport Shoe Catalog (1986).					
	Etonic Spring Sport Shoe Catalog; page 4; (1993).					
	Expert Declaration of: Jerry D. Stubblefield dated July 30, 2002.					
	AVIA 1989 Catalog excerpt.					
	AVIA Fall 1991 Footwear Catalog.					
	Declaration of Takaya Kimura (Civil Action File No. 1:00 CV 00978).					
	Mizuno 1985 Sports Shoe catalog excerpts (MIZJP 02524-02531).					
	Mizuno 1986 Sports Shoe catalog excerpts (MIZJP 02532-02537).					
	Mizuno 1987 Athletic Footwear catalog excerpts (MIZJP 02538-02546).					
	Mizuno 1988 Athletic Footwear catalog excerpts (MIZJP 02547-02549).					
	Mizuno 1991 All Line-Up catalog excerpts (MIZJP 02550-02556).					
	Mizuno 1992 Run-Bird All Line-Up catalog excerpts (MIZJP 02557-02559).					
	Mizuno 1993 All-Line-Up catalog excerpts (MIZJP 02560-02564).					
	Runner's World 1989 Spring Shoe Survey (MIZ 135893 - MIZ 135902).					
	4 photographs of shoes sold in the United States prior to the filing date of the above-referenced application.					
<b>EXAMINER</b>			<b>DATE CONSIDERED</b>			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.						

**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☒ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** \_\_\_\_\_

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**